

Application no. 10/734,066
Amendment dated: December 20, 2005
Reply to office action dated: June 20, 2005

Amendments to the Drawing

The attached sheet of drawings includes amendments to FIG. 4. This sheet replaces the original sheet including FIG. 4. In FIG. 4, the previously omitted reference numeral 414 has been added.

REMARKS

Claims 1-14 are pending in the application. Reconsideration and allowance of claims 1-14 are respectfully requested.

Prior Art Rejections

Anticipation under 35 USC § 102

Claim 1 stands rejected under 35 USC § 102(b) as being anticipated by US patent number 6,327,495 B1 to Iwabuchi, et al. ("Iwabuchi"). Claims 1-4 stand rejected under 35 U.S.C. § 102(e) as being anticipated by US patent number 6,478,736 B1 to Mault ("Mault").

With respect to claim 1, the invention in accordance with claim 1 is related to the measurement of electrical activity at an acupuncture point, using a single electrode at the point and with no introduction of a current to the body. In contrast, Iwabuchi primarily discloses the measurement of resistance following the **introduction of a current** for the specific purpose of measuring body fat, column 5, lines 50-53 (and continues on to mention a pulse rate and blood pressure). Mault discloses a "gas exchange monitor" which detects the wearer's breath (FIGS. 1 and 2). Further, the office action cites Mault (10, Fig 5, activity sensor 60) as showing an "embedded biofeedback device". However, component 10 is not "embedded" as it is either connected by a wire (as shown) or wirelessly (which explicitly means it cannot be an integral part of the computing device). The activity sensor 60 is described primarily as pedometer. Pedometers do not measure biofeedback from the body, but just measure movement, thus no comparison.

Accordingly, the system and method in accordance with the present invention of claims 1 and 8 do not rely on these prior methods for detecting a biofeedback signal. Independent claims 1 and 8 have been amended to emphasize this distinction. Accordingly, withdrawal of the rejection of claims 1 and 8 based on Iwabuchi and Mault is respectfully requested.

With respect to claim 3, Iwabuchi discloses a "radio section" 25, which is described as "...the same as those of the normal portable telephone set," col. 5, lines 60-62, i.e. a wide area wireless module similar to that which would use GSM or CDMA technology. In contrast, claim 1 recites "complementary radio communications circuits" embedded in both the standard cellular telephone as well as the biofeedback device. Such a circuit enables local, short distance communications between both. This is distinct over the portable telephone set circuits of Iwabuchi.

Further with respect to claim 3, the office action also refers to Mault col. 10, lines 22-30, which describe a PDA connection made wirelessly to the internet. The present claim 4 refers to "complementary radio communications circuits" embedded in both the standard cellular telephone as well as the biofeedback device, to enable local, short distance communications between both. This is distinct over the connections described in Mault.

With respect to claim 4, Mault discloses in col. 11, lines 24-34 the use of Bluetooth communication circuits. However Mault uses Bluetooth in this case for the communication of data already on the computing device 52, i.e. already sent from the biofeedback device to the PDA, via the network 70 to a device such as an interactive TV 92. Claim 4 refers specifically to Bluetooth being used for communications between the biofeedback device and a cellular telephone.

With respect to claim 7, the office action has cited only the phone keys in Iwabuchi. However, phone keys are not comparable to the claim limitation of a "...menu system navigable by the user...". A typical menu system consists mainly of software created screens, which can be infinitely nested and through which a user can "navigate" with the standard "up" and "down" arrow keys on a cellular phone. The exemplary embodiments of the drawing disclose one such menu system. Iwabuchi does not disclose this and in fact clearly states the use of sequential, character-based data entry sequences (i.e. one dimensional and thus very limited/inflexible).

Moreover, it is respectfully submitted that the invention defined by independent claims 1 and 8 is not obvious in view of Iwabuchi or Mault, taken alone or in combination. Mault specifically mentions the measurement of body fat (Body Fat Meter) in reference to

the system, which would be the exact same function as described by Iwabuchi. In fact, components similar to those of the presently claimed system are to be found in both Iwabuchi and Mault. The main differentiators are clearly the type of measurement being taken (gas versus electrical resistance measuring body fat in the prior systems). The invention defined by the present claims is differentiated in part by permitting the non-invasive measurement of pure electrical activity at an acupuncture point. This unique capability is nowhere shown, described or suggested by the cited references. Similarly, the program codes for displaying results on a display are all similar in the result produced, except that each display is of entirely different data, derived in unique fashions.

Claim 10 stands rejected under 35 USC § 103(a) as being unpatentable over Iwabuchi in view of US patent number 6,421,560 B1 to Yoo. According to the office action, Iwabuchi discloses measuring a biofeedback signal and displaying on a screen information based on the biofeedback signal. The office action acknowledges that Iwabuchi does not disclose displaying an illustration on the screen. According to the office action, though, Yoo discloses displaying on a screen an application of a medical procedure. The office action asserts that it would have been obvious to modify the display of Iwabuchi in view of the illustration of the device of Yoo, as motivated by Yoo's statement of the increased use of the procedure by a patient taught to use the device.

This rejection is respectfully traversed. Iwabuchi actually relates to a portable telephone having an LCD display capable of character-display only, i.e. Iwabuchi, col. 5, line 2 and col. 8 lines 13-14. Yoo, in contrast, discloses a full size TV display 200 for displaying information.

It is respectfully submitted that there is no suitable motivation to combine the character display of Iwabuchi and the TV display of Yoo. The office action implies that in col. 1, lines 26-39, "Yoo states the added benefit of the increased use of the medical procedure by a user when the user has been taught to use the device. . .". It is respectfully submitted that the cited portion of Yoo makes no mention of the use of a device but simply refers to a method of acupuncture therapy. In contrast, the invention defined by claim 10 is directed to the mechanics of how a user would use the specific

measurement device. Such uses are described in the present application at paragraph [0047], for example. Thus, the method of claim 10 is not aimed at teaching a specific therapy procedure as Yoo directly suggests in col. I lines 26-39 ("acupuncture as a home treatment...").

Rejection Under 35 USC § 112

Claims 1 and 9 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention. According to the office action, it is unclear how the cellular telephone has an "embedded" biofeedback device. The office action notes that "embedded" means "to cause to be an integral part of a surrounding whole." In the drawing, separate devices include biofeedback device 100 and cell phone 130.

This rejection is respectfully traversed. It is respectfully noted that paragraph [0011] states

In a first embodiment, the hardware of the biofeedback device, consisting of a measuring electrode made of copper, a second electrode probably on the ball of the cell phone, circuitry, etc. are embedded in the cell phone itself. The hardware of the system operates in conjunction with software. The software also resides in the cell phone. A user operates the system to produce the biofeedback signal.

Similar language is used in paragraph [0041] to describe the first embodiment. Moreover, a second embodiment is described in paragraph [0042]:

In a second embodiment, the biofeedback device is contained as a standalone measuring pen that communicates with the cell phone 130, either through a wire or wirelessly, similar to the embodiment illustrated in FIG. 1. Software resides on the biofeedback device to take actual biofeedback measurements such as electrical activity of the skin. Software also resides on the cellular telephone and produces a display on the display screen of the cellular phone 130. Information about the measurements taken by the biofeedback device 100 is communicated to the cell phone 130 and used to produce the display.

Accordingly, it is respectfully submitted that claims 1 and 9 are directed to a system and method in accordance with the first embodiment of paragraph [0041]. The meaning of the language of claims 1 and 9 is submitted to be sufficiently clear to satisfy section 112, paragraph 2, of the Patent Act, when read in light of the specification. Withdrawal of the rejection under 35 U.S.C. § 112 is respectfully requested.

Objection to the Specification

Paragraph [0001] of the specification has been amended to correct a typographical error noted in the Office Action.

Objection to the Drawing

A replacement page showing FIG. 4 is submitted herewith. In FIG. 4, reference number 414 has been added to the drawing.

With this response, the application is believed to be in condition for allowance. Should the examiner deem a telephone conference to be of assistance in advancing the application to allowance, the examiner is invited to call the undersigned attorney at the telephone number below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Scott W. Brim", is written over a horizontal line.

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